

WAIVER OF SERVICE OF SUMMONS

TO: Scott Kareff, Schulte Roth & Zabel LLP

I acknowledge receipt of your request that I, on behalf of Talisker Corporation and Talisker Mountain Incorporated, waive service of summonses in the action of Talisker Capital Management, LP, Talisker Holdings GP, LLC, Talisker Domestic GP, LLC, Talisker Domestic Fund, LP, Talisker Overseas Fund, Ltd. and Talisker Master Fund, Ltd. v. Talisker Corporation and Talisker Mountain Incorporated which is case number 1:08-cv-04771-DAB in the United States District Court for the Southern District of New York. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after May 22, 2008, or within 90 days after that date if the request was sent outside the United States.

May 31, 2008
Date

Thomas R. Barton
Signature

Printed/Typed Name: Thomas R. Barton
{ as _____ }
{ of _____ }

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant who, after being notified of an action and asked to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or even its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against the defendant. By waiving service, a defendant is allowed more time to answer than if the summons has been actually served when the request for waiver of service was received.

Effective A/O 12/1/93 in compliance with
Federal Rules of Civil Procedure 4

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

Talisker Capital Management, LP,
Talisker Holdings GP, LLC, Talisker
Domestic GP, LLC, Talisker Domestic
Fund, LP, Talisker Overseas Fund, Ltd.
and Talisker Master Fund, Ltd.

SUMMONS IN A CIVIL ACTION

Plaintiffs,

v.

Talisker Corporation and Talisker
Mountain Incorporated

Defendants

TO: (Name and address of Defendant)

Talisker Corporation
c/o Vancott, Bagley, Cornwall & McCarthy, P.C.
36 S. State Street, Suite 1900
Salt Lake City, Utah 84111-1478

CASE NUMBER:

08 CV 4771

JUDGE BATTS

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

MAY 22 2008

J. MICHAEL McMAHON

CLERK

DATE

(By) DEPUTY CLERK

Catherine Lapley

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (<i>PRINT</i>)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server _____</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

Talisker Capital Management, LP,
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Fund, LP, Talisker Overseas Fund, Ltd.
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v.

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Defendants

TO: (Name and address of Defendant)

Talisker Mountain Incorporated
c/o Vancott, Bagley, Cornwall & McCarthy, P.C.
36 S. State Street, Suite 1900
Salt Lake City, Utah 84111-1478

08 CV 4771
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J. MICHAEL McMAHON
CLERK

(By) DEPUTY CLERK

MAY 22 2008

DATE

AO 440 (Rev. 8/01) Summons in a Civil Action

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STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="margin-top: 20px;"> Executed on _____ Date _____ Signature of Server _____ </div> <div style="margin-top: 20px; text-align: center;"> Address of Server _____ </div>		

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